IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 322 of 2005

Between:

Smt. N. Manorama, W/o. M. Naga Raju,
Bandapalli Village, Devanakonda Mandal, Kurnool District.

..... PETITIONER

AND

1 The Joint Collector, Kurnool, Kurnool District.
2 The Revenue Divisional Officer, Adoni, Adoni Mandal, Kurnool District.
3 The Mandal Revenue Officer, Devanakonda Mandal, Kurnool District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ, order or direction, more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the 2nd Respondent herein in issuing impugned order of suspension in Rc.M. 1270/2004 dated 24-12-2004 without considering the explanation as illegal, improper, arbitrary and against all cannons of Justice, besides being violtive of Art 14, 16, 19 & 21 of the Constitution of India and pass such other order or orders.

Counsel for the Petitioner:MR.R.RAMANJANEYULU

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner was appointed as the dealer of a fair price shop through an order, dated 28.03.1996, passed by the 2nd respondent. Through an order, dated 24.12.2004, the 2nd respondent suspended her authorization. Aggrieved thereby, petitioner preferred an appeal before the 1st respondent together with an application for grant of stay. Her grievance is that no orders have been passed so far by the appellate authority. Hence, she seeks appropriate directions in this regard.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The 2nd respondent issued a show cause notice, dated 18.10.2004, to the petitioner and directed her to explain as to why her dealership shall not be suspended for the four charges framed against her. Petitioner submitted her explanation on 01.11.2004 denying the charges. On receipt of explanation, the 2nd respondent called for remarks from the Mandal Revenue Officer, the 3rd respondent, and suspended the dealership of the petitioner. No period, as such, is mentioned.

The fact that the 2nd respondent issued a show cause notice proposing to suspend the dealership of the petitioner discloses that he intended to suspend the authorization of the petitioner as a measure of penalty and not as a measure pending any enquiry. The procedure adopted by the 2nd respondent conforms to the requirement under Clause 5(4) of the A.P. Public Distribution System Control Order, 2001. This Court is not inclined to discuss the validity or otherwise of the findings recorded by the 2nd respondent. It is for the appellate authority to consider the same.

One fact, which weighs with this Court, is that the suspension, which was ordered

against the petitioner as a substantive penalty was not restricted to any period. It is only a cancellation that can operate without reference to any period, and a suspension, except where it is pending enquiry, cannot be for an indefinite period. Otherwise, it almost amounts to an order of cancellation.

Almost one month has elapsed from the date of suspension. The very purpose of filing an application for stay by the petitioner has been defeated. Even if the appeal is allowed, at a later stage, on any ground, the petitioner shall have to undergo the hardship.

Therefore, the writ petition is disposed of directing that the petitioner shall be entitled to continue as fair price shop dealer, pending disposal of the appeal by the 1st respondent. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 20-01-2005

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To

1 The Joint Collector, Kurnool.
2 Revenue Divisional Officer, Adoni, Kurnool District.
3 Mandal Revenue Officer, Devanakonda Mandal, Kurnool District.

2 2CCs to the G.P for Civil Supplies, High Court Buildings,

Hyderabad(O.U.T).

3 2CD copies